IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09-06-2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

CRIMINAL APPEAL No. 544 of 2000

S.Murugesan ..Appellant

-vs-

Seemaisamy .. Respondent

This appeal is filed u/s 378 CRL.P.C against the Judgment passed in C.C.No.126/1998 dated 07.12.1999 on the file of Judicial Magistrate, Rasipuram.

For appellant: : Mr. K.Kalyanasundaram
For respondent: : Mr.M.Venkateswaran

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JUDGMENT

The learned counsel appearing for the appellant is present and argued the appeal with the permission of the Court,since the case has been listed under the caption"dismissal"..

2. This appeal has been preferred against the Judgment in C.C.No.126/1999 on the file of the Judicial Magistrate, Rasipuram wherein the learned Judicial Magistrate has dismissed the private complaint filed under Section 200 of Cr.P.C. by the appellant as a complainant. The said private complainant was filed against the accused, who was working as a Sub Inspector of Police at Belukurichi at the relevant period. The only ground on which the said private complaint was preferred by the complainant is that the accused had opened a rowdy sheet against the petitioner in the police station describing him as an 'active notorious rowdy criminal'.

3. The private complaint was taken on file by the learned Judicial Magistrate and after furnishing copies to the accused under Section 207 Cr.P.C.,and on summons the accused appeared before the Court.

4. On the side of the complainant, P.Ws 1 to 3 were examined and Exs P1 to P3 were marked.

4a. The complainant has examined himself as P.W.1, who would depose to the fact that during 1995, he was working as a Secretary of Narpani Mandram and was also the President of Bharathiya Janatha Party, Belukurichi. He would also admit that a case under Section 363 of IPC

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under Crime No.176 of 1997 was registered against him by the accused on 17.7.1997 and that another assault case was also registered under Cr.No.180 of 1997 by the accused but no charge sheet was laid in Cr.No.176 of 1997 but in Cr.No.180 of 1997 charge sheet was filed and is pending trial and that in both the cases, he surrendered before the Judicial Magistrate Rasipuram and got bail. Further allegation of P.W.1 against the accused is that he was detained by the accused in the police station from 10.3.1997 to 13.9.1997 in unlawful custody. On 5.12.1997 when the complainant was assaulted by one Velu @ Velusamy, he preferred a complaint with the Belukurichi Police Station and the same was registered under Crime No.314 of 1997. But no further action was taken by the accused in the complaint preferred by P.W.1 against Velu @ Velusamy. But the accused had arrested P.W.1 on 7.12.1997 by saying that Velu @ Velusamy had filed a counter complaint against P.W.1 and subsequently, on 12.12.2007, the accused had opened rowdy list register against the complainant by describing him as an 'active notorious rowdy criminal'. A notice was issued by P.W.1 to the accused on 3.2.1998. The copy of the notice is marked as ExP1. It was returned with an endorsement"refused". Hence P.w.1 had sent another notice under the original of Ex P2. Ex P3 is the returned cover.

4b. P.W.2 stood as a surety for P.W.1 in a bail application. But in the chief examination, he has stated that the accused has mentioned P.W.1 in the rowdy list as an active notorious criminal. But in the cross examination, he has not given any details regarding how he came to know about the entries in the rowdy list maintained in the police station. Only under such circumstances, the learned Judicial Magistrate has disbelieved the evidence of P.W.2 and also P.W.3 who was not in a position to say what is the meaning of active notorious criminal". As rightly observed by the learned Judicial Magistrate, the history sheet for the rowdies in the local area will be maintained in the police station and public will not get any access to go through the same. Only on that ground, the learned Judicial Magistrate has come to a conclusion that there was no imputation made against the accused to warrant conviction under Section 500 of IPC.

5. Under such circumstances, I do not find any reason to interfere with the well considered findings of the learned Judicial Magistrate, Rasipuram in C.C.No. 126 of 1998,which neither infirm nor illegal.

6. In the result, the appeal is dismissed confirming the Judgement in C.C.No.126 of 1998 on the file of Judicial Magistrate, Rasipuram.

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Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Judicial Magistrate, Rasipuram.
2.-do- the Chief Judicial Magistrate, Coimbatore.
+ One cc to Mr. K. Kalyanasundaram, Advocate sR 33567
+ One cc to Mr. M. Venkareswaran, Advocate SR 33065
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